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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,916	12/06/2001	Ted Alspach	07844-514001	6109

21876 7590 01/30/2006

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EXAMINER
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JONES, HUGH M

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/010,916	<b>Applicant(s)</b> ALSPACH, TED	
	<b>Examiner</b> Hugh Jones	<b>Art Unit</b> 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 29-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

### DETAILED ACTION

1. Claims 29-66 of U. S. Application 10/010,916, filed 12/06/2001 are presented for examination. Applicants have canceled all claims in response to the non-final rejection of 7/27/2005 and added claims 29-66.

#### **Claim Rejections - 35 USC § 112**

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 29-36 and 48-55 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a modeled flare, does not reasonably provide enablement for a "model". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 29-36 and 48-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The meaning of model, in the context of the claims, is unknown. The specification provides no further understanding. A model of what?

**Claim Rejections - 35 USC § 102**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 29-66 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Knoll (reviewed by Andrew Balis).

8. Knoll discloses vector based interactive software for creating various lens flares and which can be used in such applications as Photoshop and similar image editing applications. The user can edit the all the elements of the flare, brightness, scale, color, angle, location layer via a GUI (page 3). Especially note pages 3-4.

9. Claims 29-66 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by *Optical Light Effects* "OLE" (author unknown, part of the software called *Maya*).

10. OLE discloses on pages 8-10 properties of lens flares that can be interactively edited by the user. These properties include color and brightness (pg. 8); location (pg. 8); shape, size, sharpness and number of elements (pg. 9-10); spread length and spread direction (pp. 9-10), color, color range, brightness (pg. 9); lens flare location (pg. 9).

**Response to Arguments**

11. Applicant's arguments, filed 10/27/2005 have been carefully studied, but are not persuasive.

12. Applicants have canceled all claims in response to the non-final rejection of 7/27/2005 and added claims 29-66.

13. Applicants argue that the art of record does not disclose certain aspects of the claimed invention. However, Applicants make no specific arguments against the prior art of record, and, in fact, do not discuss the prior art; instead, Applicants have canceled the original set of claims. In response to the general allegations against the prior art, please see the prior art rejections, as applied in this action.

14. The claimed invention appears to be an interactive procedure for creating various flares in photo editing applications. The prior art of record discloses these features. Applicants have made no arguments to distinguish their claimed invention over the prior art of record.

15. Applicant's comments in section III are noted. The Examiner can only respond to arguments that are actually put forward. Similarly, the Examiner can only respond to arguments for patentability that are actually offered to the office. In the interests of compact prosecution, it would be beneficial if all relevant arguments were put forward in a timely manner. It is noted that Applicants have made no specific arguments. It is further noted that the new set of claims appears, in general, to be broader than the original claims, which were canceled subsequent to the prior art rejections. The rejection is made final.

### **Conclusion**

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**18. Any inquiry concerning this communication or earlier communications from the examiner should be:**

directed to: Dr. Hugh Jones telephone number (571) 272-3781,

Monday-Thursday 0830 to 0700 ET,

**or**

the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

**mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-9051 (for formal communications intended for entry)

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*or* (703) 308-1396 (for informal or draft communications, please label *PROPOSED* or *DRAFT*).

Dr. Hugh Jones

Primary Patent Examiner

January 20, 2006

HUGH JONES Ph.D.  
PRIMARY PATENT EXAMINER  
TECHNOLOGY CENTER 2100